

1 F.3d 231, 233 (9th Cir. 1994). “[T]he 90 day period provided by Rule 25(a)(1) will not be
2 triggered against [the decedent’s] estate until the appropriate representative of the estate is served
3 a suggestion of death in the manner provided by Federal Rule of Civil Procedure 4.” Id. at 233–
4 34. “The Ninth Circuit has found that the burden to identify the successor-in-interest or personal
5 representative of a deceased party lies with the party best suited to do so, which is typically the
6 party that filed the suggestion of death.” Bailey v. MacFarland, 2020 WL 5763825, at *3 (E.D.
7 Cal. Sept. 28, 2020) (citing Gilmore v. Lockard, 936 F.3d 857, 866–67 (9th Cir. 2019)).

8 Here, it appears that defense counsel did not serve the nonparty successor or
9 representative of Plaintiff’s estate. (ECF No. 111, p. 2).

10 Accordingly, IT IS HEREBY ORDERED that defense counsel has twenty-one days from
11 the date of service of this order to serve the notice of death as described above and to file a proof
12 of service with the Court, or to file a brief explaining why defense counsel believes she is not
13 required to do so.

14 IT IS FURTHER ORDERED that the settlement conference set for January 12, 2023, is
15 VACATED.

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17 IT IS SO ORDERED.

18 Dated: November 1, 2022

19 /s/ Eric P. Gray
20 UNITED STATES MAGISTRATE JUDGE
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